# IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR MULTNOMAH COUNTY

THE STATE OF OREGON,

No. 1901-30000

Plaintiff,

DA 2403060-1 2403060-2

JAMES MOONEY,
MICHAEL GONZALEZ,

Defendants.

MOTION FOR A COURT ORDER TO RELEASE A GRAND JURY TRANSCRIPT UNDER ORS 132.270(3)(a)(A)

COMES NOW ROD UNDERHILL, District Attorney for Multnomah County, by and through Deputy District Attorney Todd T. Jackson, respectfully requests a court order to release a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) in the above referenced case.

#### INTRODUCTION

On June 3, 2019, Multnomah County Grand Jury No. 3, Term No. 5 returned a "not true bill" indorsement after reviewing evidence presented regarding the fatal shooting of Jeb Brock by peace officers on April 29, 2019. The grand jury proceedings were recorded in accordance with ORS 132.260(1). The State now moves the court for an order under ORS 132.270(3)(a)(A) that a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) be released. The above listed defendants have received a copy of this motion via E-Mail, and have also been served with it by certified U.S. Mail.

## LAW AND ARGUMENT

ORS 132.270(3) provides:

- (a) When a grand jury inquires into the conduct of a public servant ... for acts occurring in the performance of the public servant's duties, and an indictment resulting from the grand jury proceedings is indorsed "not a true bill":
  - (A) The ... prosecuting attorney may file a motion requesting a court order releasing all or a portion of a transcript of the grand jury proceedings. A copy of the motion must be served on the opposing party. In deciding whether to issue such an order, the court shall determine whether the public interest in disclosure outweighs the interest in maintaining the secrecy of the grand jury proceedings. If the court orders disclosure, the court may set reasonable conditions on copying, disseminating or republishing the transcript.

ORS 132.270(4)(a)(C) provides:

(C) The prosecuting attorney, the public servant who is the subject of an indictment indorsed "not a true bill" or the public servant's attorney may file a motion for a protective order within 10 days of receiving a motion described in subsection (3)(a) of this section.

In this case, the grand jury has reviewed acts occurring in the performance of the official duties of the following public servants: Portland Police Sergeant James Mooney, and Portland Police Officer Michael Gonzalez. The grand jury returned a "not true bill" indorsement after hearing the presentation of evidence in the case.

The attorneys for the above listed public servants received a copy of this motion via E-Mail on June 4, 2019. Therefore, under ORS 132.270(4)(a)(C), they have 10 days from June 4, 2019 to file a motion for a protective order concerning the transcript. The State is not requesting a protective order for the transcript at this time.

This case involved the use of deadly force by the above listed peace officers against Jeb Brock, which resulted in Jeb Brock's death. As such, there is a significant public interest in disclosing the grand jury proceedings recorded pursuant to ORS 132.260(1) that, under the circumstances of this case, outweighs the interest in maintaining the secrecy of the grand jury proceedings. Should the Court grant the State's motion, the State intends to publish the transcript to the Multnomah County District Attorney's Office public website.

#### **CONCLUSION**

For the reasons stated above, the State respectfully requests that the Court order a release of a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) in this case.

Dated this 4th day of June, 2019.

Respectfully Submitted,

ROD UNDERHILL District Attorney Multnomah County

By /S/ Todd T. Jackson
Todd T. Jackson, OSB 114240
Deputy District Attorney

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No. 19-01-30000

Plaintiff,

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR MULTNOMAH COUNTY

DA 2403060-1 2403060-2

V.

THE STATE OF OREGON,

**ORDER** 

JAMES MOONEY,

MICHAEL GONZALEZ,

Defendants.

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## ORDER

This matter having come before the Court on motion of Rod Underhill, District Attorney for Multnomah County, by and through Deputy District Attorney Todd T. Jackson, the Court finds the following:

Pursuant to ORS 132.270(3), under the circumstances of this case, the public interest in disclosure of a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1) outweighs the interest in maintaining the secrecy of the grand jury proceedings.

Therefore, pursuant to ORS 132.270(3), in the above entitled matter, it is hereby ORDERED that the State shall release a transcript of the grand jury proceedings recorded pursuant to ORS 132.260(1). Further, pursuant to ORS 132.270(3)(b), the transcript shall not include any personal identifiers of a victim or a witness, or any name or personal identifiers of a grand juror.

Dated this 19th day of June 2019,

Judge

Multnomah County Circuit Court

1	Submitted by:
2	ROD UNDERHILL
3	District Attorney
4	Multnomah County, Oregon
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6	By: /S/ Todd T. Jackson
7	Todd Jackson, OSB 114240
8	Deputy District Attorney
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